

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5086 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GUJARAT RAJYA JAHER BANDHKAM KARIGAR & MAJOOR MANDAL

Versus

STATE OF GUJARAT

Appearance:

MR JAYANT P BHATT for Petitioners

MR KT DAVE for Respondent No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/03/98

ORAL JUDGEMENT

Heard the learned counsel for the parties.

2. The petitioner, Gujarat Rajya Jaher Bandhkam Karigar and Majoor Mandal, filed this special civil application before this Court and prayer has been made for direction to the respondents to pay the regular pay scale and allowances from the date of joining the services and other benefits that regular Class-IV

employees of the State Government get and absorb the members of the petitioner-association named in annexure 'A' on permanent basis and also pay 12% interest of the difference of the local dues or arrears.

3. On 31st December, 1987, this Court granted the interim relief in terms:

"It is directed that the workmen mentioned above be paid salary and other allowances on the same basis as permanent workmen. It is clarified that it will be open to the respondents to pray for modification of this order, on the basis that some of the workmen mentioned in the aforesaid annexure to the petition are no longer in actual service."

The order of this Court dated 31st December, 1987 has been challenged by the respondents by filing the Letters Patent Appeal and the learned counsel for the parties are in agreement that the L.P.A. has been dismissed. In pursuance of the interim relief granted by this Court, the members of the petitioner-association named in annexure 'A' are being given the regular pay scale by the respondents and they are enjoying that benefit for all these years.

4. Learned counsel for the petitioner made a statement before this Court that in pursuance of the Government resolution dated 17th October, 1988 the persons named in annexure 'A' have been given the pay in the regular pay scale of the concerned post with all other benefits as enumerated under the said resolution. These benefits have been given from 17th October, 1988.

5. Learned counsel for the respondents contended that the persons named in annexure 'A' were not entitled for the regular pay scale and other benefits as they were daily wagers.

6. However, this contention of the learned counsel for the respondents is of no substance as the learned counsel for the respondents does not dispute that in pursuance of the Government resolution dated 17th October, 1988, the daily wagers named in annexure 'A' have already been given the benefits of regular pay scale etc.. Only dispute now remains of the benefits given to the persons named in annexure 'A' of the pay scale etc. for the period from 31st December, 1987 to 16th October, 1988 under Court's order.

7. In view of the fact that these benefits have been given to the persons named in annexure 'A' in pursuance of the order of this Court dated 31st December, 1987 which has been affirmed in L.P.A. also and coupled with the fact that the Government itself has decided to give the benefits of regular pay scale etc. to all daily wage employees of the Department concerned, which is inclusive of the respondent-Department herein under the resolution dated 17th October, 1988, now nothing substantial survives in this case. Even if the contention of the learned counsel for the respondents is accepted still it cannot be said to be an appropriate case where the benefits which have been given to the persons named in annexure 'A' under this Court's order dated 31st December, 1987 as affirmed in L.P.A. for the refund thereof. These are the low paid employees and even if it is taken that they would not have been entitled for that benefits still the order of recovery of the said benefits may not be just and proper.

8. This special civil application is disposed of in the terms that the persons named in annexure 'A' shall be entitled for the pay in the regular pay scale from the date from which those benefits have been given to them in pursuance of this Court's order dated 31st December, 1987. However, it is made clear that as the benefits of the regular pay scale etc. have been given the persons named in annexure 'A' under the interim relief of this Court and as such on the basis of that benefit any person junior to them will not be entitled for claiming the parity from the date from which these persons have been given the benefits. The special civil application and rule stand disposed of subject to the aforesaid directions with no order as to costs.

zgs/-